

March 10, 2022

Hon. Alejandro Mayorkas  
Secretary U.S. Department of Homeland Security  
301 7th Street, SW  
Washington, DC 20528

**Re: Notice Seeking Public Comments on Methods To Prevent the Importation of Goods Mined, Produced, or Manufactured With Forced Labor in the People's Republic of China, Especially in the Xinjiang Uyghur Autonomous Region, Into the United States (87 FR 3567; Docket No. DHS-2022-0001)**

Dear Secretary Mayorkas:

The Consumer Technology Association (CTA) welcomes the opportunity to submit comments to the Department of Homeland Security (DHS) and the Forced Labor Enforcement Task Force (FLETF) on the implementation of the Uyghur Forced Labor Prevention Act (UFLPA) to ensure that goods, wares, articles, and merchandise mined, produced, or manufactured wholly or in part with forced labor are not imported into the United States. CTA is the trade association representing the \$422 billion U.S. consumer technology industry, which supports more than 18 million U.S. jobs. With over 1500 members, most of which are small and medium-sized enterprises (SMEs), CTA educates U.S. policymakers to ensure that laws and regulations promote the innovation economy and encourage the development of technologies in all sectors.

This industry condemns the use of forced labor and unequivocally supports the Administration's efforts to end this scourge around the world. Compliance with the requirements of the UFLPA will be a massive undertaking, and close coordination and cooperation between government and industry will be necessary to implement the spirit and letter of the law successfully.

This is particularly true of the UFLPA's "rebuttable presumption," a novel and powerful tool which requires an importer to prove the absence of forced labor from any detained imports. Implementing the rebuttable presumption will be challenging for both government and the private sector. Close cooperation, coordination, and information sharing between the public and private sectors is therefore necessary, both in the lead up to June 21, 2022 (the date the rebuttable presumption takes effect and when the FLETF must submit its enforcement strategy to the Congress) *and* throughout the implementation period after June 21. Above all, CTA believes that only through public-private cooperation will the FLETF be able to strike the best possible balance of implementing U.S. laws and regulations regarding forced labor while maintaining U.S. industry competitiveness and strengthening U.S. technology leadership.

Given the complexity of consumer technology supply chains, which can involve thousands of inputs and materials from a vast array of suppliers around the world, CTA can offer unique perspectives for the FLETF.

CTA's comments offer background on consumer technology supply chains, describe the programs and practices that consumer technology companies have in place to address forced labor, outline key principles for the FLETF to consider as it develops the enforcement strategy required by the UFLPA, and provide recommendations for advancing UFLPA implementation. Annex 1 provides answers to select questions posed by the FLETF in DHS's notice requesting comments.

CTA also supports the comments from the cross-industry Forced Labor Working Group (FLWG). We urge DHS and the FLETF to take these and other comments from industry into account in their deliberations on UFLPA implementation.

## **I. Consumer Technology Supply Chains Are Global, Complex, Interdependent Webs of Value-Creation**

Consumer technology companies are innovators, manufacturers, service providers and – most of all – employers of American workers. They make products designed to help the world overcome its greatest environmental, social, economic, and development challenges. Consumer technology supply chains are global, complex, interdependent webs, with many suppliers across the world playing important roles. Above all, U.S. workers often provide the highest value activities in these supply chains through research and development, design, business development, marketing, sales, and delivery.

Consumer technology companies will know their first-tier suppliers and often have a vast array of suppliers in the first tier alone, indicating the challenges of the law's implementation beyond the first tier. But it can be difficult to know the suppliers of the raw materials that go into the inputs for their final products. These challenges are only amplified for SMEs.

For this reason, it is critical that the FLETF, in its strategy and guidance to importers, specify in the most practical and plain terms possible what constitutes “clear and convincing evidence” that imports do not contain goods, wares, articles, and merchandise mined, produced, or manufactured wholly or in part with forced labor in the People's Republic of China. Likewise, any evidence that would be required should be as equally accessible and available to SMEs as it is to larger companies.

## **II. Timing is Everything – The FLETF Must Give Importers More Time to Comply with the Rebuttable Presumption**

CTA is concerned about how the FLETF will comply with the overlapping deadlines set out in the UFLPA. Not only does the rebuttable presumption go into effect on June 21, but the FLETF must also submit its enforcement strategy to the Congress *and* publish implementation guidance to importers on the same date. It is our strong view that this situation is unworkable and would disproportionately impact U.S. companies if the Administration begins enforcement of the UFLPA without first allowing companies time to review and understand the expectations and guidelines.

While companies have processes in place to comply with customs laws enacted prior to UFLPA, altering internal procedures in response to the FLETF's new guidance will take time. In many instances, original equipment manufacturers have procured parts well in advance of the compliance date, and retroactive application of the guidance to these already-designed and, in some cases, already-manufactured, products could result in significant disruptions. Furthermore, many companies will have shipped items months before

the guidance becomes available, calling into question whether products on the water, for example, will be at higher risk of detention by U.S. Customs and Border Protection (CBP). And many companies, particularly SMEs, may simply lack the particular kinds of evidence, records, or due diligence processes that will be expected pursuant to the guidance. Companies will need time to establish such internal policies and processes and gather necessary documentation.

CTA Recommendations:

- CTA respectfully requests that the FLETF take the difficult implementation timing into consideration and direct CBP to conduct restrained enforcement for no less than the first six months following the roll out of the guidance and the enforcement strategy.
- Ideally, given the complexity of consumer technology industry supply chains, restrained enforcement would extend for one year or more. Such an approach would give manufacturers and importers sufficient time to investigate and correct any existing issues and to update internal policies and procedures consistent with the expectations of the FLETF.
- The FLETF should also consider offering an additional six months for remediation when a supplier is added to an exclusion list.
- Products manufactured prior to the effective date of enforcement should be exempted from further enforcement actions if detained.
- We urge the FLETF to dialogue directly with industry in the lead up to and upon implementation of the rebuttable presumption. Ongoing dialogue will be necessary to ensure successful enforcement and high rates of compliance. U.S. SMEs will benefit from this dialogue, which also should include continuous education about compliance and enforcement.
- It also may be useful for the FLETF to consider staging compliance down through the supply chain, with evidentiary expectations starting with tier 1 and then moving to tier 2 and beyond as appropriate for successful enforcement and compliance.
- We strongly urge the FLETF to subject the enforcement strategy and guidance to importers to notice and comment processes consistent with the Administrative Procedure Act.
- We also encourage the FLETF to take industry comments into account in good faith as it refines and updates the strategy and guidance over time, dialoguing with industry directly throughout its work.

**III. Successful UFLPA Implementation Requires the FLETF to Clarify what Constitutes “Clear and Convincing Evidence” in its Guidance to Importers**

CTA fully supports the U.S. government’s efforts to protect human rights and combat forced labor, and we recognize industry has an important role to play. For these efforts to be successful, the guidance developed by the FLETF must provide clarity on high-priority products and must specify due diligence practices that would produce evidence CBP would consider sufficiently “clear and convincing” to rebut the presumption. For example, companies will need a better understanding of what actions they must take beyond implementing internal policies against forced labor through their suppliers. Consumer technology companies

also need to know where to focus to maximize the impact of their compliance resources and activities while minimizing disruptions on their U.S. workers and consumers. Guidance that creates a level of certainty is necessary for consumer technology companies when making supply chain business decisions and allows CBP to create a more efficient detection system.

Under the status quo of the CBP Withhold Release Order (WRO) program, CBP has created an expectation that importers submit mountains of documentation that may not be probative or necessary to achieve the desired result of releasing products from detention. This situation will only worsen under UFLPA implementation if the enforcement guidance lacks clarity, forcing companies to submit even more documentation regarding due diligence in a blind effort to provide “clear and convincing evidence.” Appropriately calibrated guidance from the FLETF will allow importers to optimize their resources and give CBP what it needs, rather than what importers think CBP may need. CBP in turn could then optimize the use of its own resources, allowing CBP staff to focus on combating forced labor as opposed to spending unnecessary time reviewing extraneous documentation.

To protect proprietary information, certain importers, such as manufacturers, are often restricted from accessing sourcing data from suppliers who do not directly provide products to the end manufacturer. As the FLETF develops a strategy for combating forced labor, recognition and consideration of business proprietary interests among manufacturers and suppliers and other visibility barriers outside the manufacturer’s control is also imperative. Unless the FLETF provides clear guidance on how to identify prohibited products that are made with forced labor, the regulations should be limited to direct suppliers into which importers have real visibility and should avoid imposing a standard that would disrupt or threaten industry control over intellectual property and other confidential information.

CTA Recommendations:

- Given the significant shift in policy as a result of UFLPA, the FLETF should issue its due diligence guidance as soon as possible. Specifically, the FLETF should issue at least key parts of the guidance as they are ready, in advance of rebuttable presumption taking effect on June 21. Doing so would help industry prepare to comply with the law prior to the effective date. We seek clear and specific guidance with details on what steps companies should take and which documents we should have prepared.
- CBP should initiate a rulemaking to develop more guidance on the methods and practices industry can follow to meet the rebuttable presumption, in addition to the enforcement strategy from the FLETF. The law leaves this open as an option.
  - Through this rulemaking, CBP should clarify what types of evidence and documentation would be needed should the rebuttable presumption apply.
  - The FLETF should establish a clear standard of evidence for CBP’s detention of shipments that are allegedly subject to the rebuttable presumption. CBP should only detain shipments based on published standards that include specific, targeted, substantiated, and articulable evidence, like those necessary to meet CBP’s threshold for formal findings of forced labor.
  - CBP should also clearly delineate expectations on due diligence, including on sequencing of efforts, as surveying the whole supply chain is a complex task, particularly for SMEs.

- CBP should work with private sector actors in advance of detaining shipments under the UFLPA, as this would help to develop proper scope and targeting to address forced labor issues that may arise.
- CBP should establish a mechanism for sharing allegations and evidence with affected companies and importers, allowing for fairness and due process. This could also allow industry to serve as a partner to CBP in its enforcement by providing information that importers may have been unaware of and giving them an opportunity to work within their supply chain to redress concerns. The mechanism could include:
  - a requirement for CBP to notify an importer if an incoming shipment is being targeted; and
  - an opportunity for the company or importer submit documentation to CBP for consideration before goods are subject to detention.
- As indicated under UFLPA, the State Department should start its own work with industry stakeholders quickly to meet the 90-day deadline.<sup>1</sup>

#### **IV. The FLETF Enforcement Strategy Should Specify the Types of Documents that Would Satisfy the “Clear and Convincing Evidence” Standard**

As noted, the UFLPA requires that the FLETF publish guidance for importers on how to establish by “clear and convincing evidence” that goods are not made with forced labor.

It is crucial that the enforcement strategy provide a high level of clarity, explicit direction, and specificity on the sort of documentation that importers must provide to meet this standard. It is also imperative that the required documentation be readily available and procurable in a safe and practical manner by both large companies and SMEs.

In the absence of such clarity, importers will not know what sort of information to begin collecting and retaining from suppliers or to provide to CBP if an entry is stopped under the UFLPA. As a result, they will likely err on the side of being over-inclusive in the information they provide, which may in turn have various problematic outcomes. These include overwhelming CBP with extraneous documentation, as well as the imposition of internal compliance processes for importers which will only further slow already delayed international supply chains.

The FLETF should thus publish clear guidance on the documents that CBP will require from companies and importers to rebut the presumption that detained products have been produced using forced labor. This guidance should:

- include a positive list of documents, and substantive information that such documents generally contain, that are acceptable to rebut the presumption (e.g., a standardized questionnaire or reporting template); and
- indicate what purpose each of the listed documents has in rebutting the presumption so as to afford manufacturers and importers transparency on how CBP will use the documents in adjudication of its enforcement actions.

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<sup>1</sup> The UFLPA states: “The State Department should issue a plan for working with private sector entities seeking to conduct supply chain due diligence to prevent the importation of goods mined, produced, or manufactured wholly or in part with forced labor into the United States.”

Required documentation should be applicable across industries and limited to standard, commonly used commercial documents that are already collected in the normal course of business.

Finally, CBP should allow manufacturers and importers to provide the following kinds of evidence to demonstrate the adequacy of screening for forced labor risks in supply chains:

- A Code of Conduct or similar set of requirements that specifies a company’s expectations from its supply chain to prevent forced labor in sourcing;
- A demonstration that company requirements align to the OECD 5-step framework, UN Guiding Principles on Business and Human Rights, or ILO core labor standards;
- Evidence that a company has communicated requirements to its supply chain, including through contractual requirements;
- Detailed supplier requirements on:
  - Anti-discrimination, anti-harassment and abuse
  - Prevention of involuntary labor
  - Management of third-party employment agencies involved in recruitment of workers
  - Freedom of movement
  - Grievance management system without any fear of retaliation for reporting concerns
  - Worker participation through interviews, satisfaction surveys and demonstrate change based on the feedback
- An audit policy and accompanying procedures, including a corrective action closure process; and
- Demonstration of delivery of worker rights training.

## **V. The FLETF Should Rely on Existing Industry Initiatives**

CTA believes that the FLETF will succeed if it builds out partnerships with industry and importers using existing initiatives and programs as foundation for engagement and information-sharing. Consumer technology firms have been working on their own and in collaboration with other organizations to ensure that components produced with forced labor do not enter their supply chains. As necessary, the FLETF should establish partnerships and systems in collaboration with industry. Such programs would spread the burden of enforcement and compliance across government and industry to optimize CBP’s use of its scarce enforcement resources.

Examples of these existing U.S. and international initiatives and programs include:

- CBP’s Trusted Trader designation: The FLETF should consider leveraging and expanding the existing CBP Trusted Trader program, including the Customs Trade Partnership Against Terrorism (CTPAT). Trusted traders should be allowed to satisfy the “clear and convincing evidence” standard by demonstrating that their labor compliance programs meet specific standards. If allegations arise with respect to trusted trader supply chains, then CBP should apply disproportionate weight to the trader's findings from periodic compliance audits and other internal compliance processes;

- International Labour Organization (ILO) Special Action Programme to Combat Forced Labour<sup>2</sup>;
- The Ten Principles of the UN Global Compact<sup>3</sup>, in particular Principles 1, 2, 4 and 5<sup>4</sup>; and
- OECD Due Diligence Guidance for Minerals – 5-Step Framework for Upstream and Downstream Supply Chains.<sup>5</sup>

## **VI. If New Programs are Necessary, the FLETF Should Consider a Standards and Conformance Model**

Industry has significant experience with ensuring that products and processes meet certain voluntary, consensus standards to ensure trust in the marketplace. Further, OMB Circular A-119<sup>6</sup> directs federal agencies to use standards developed or adopted by voluntary consensus standards bodies rather than government-unique standards, except where inconsistent with applicable law or otherwise impractical. If the FLETF creates a new public-private program for companies to prove the absence of components produced with forced labor in their supply chains, it should consider following a similar approach.

One example of a similar effort is the way the government addresses conflict minerals.<sup>7</sup> In this case the government relies on a recognized due diligence framework, which is a framework developed using due-process procedures, including the broad distribution of the framework for public comment. In the case of conflict minerals a framework was developed by the Organisation for Economic Co-operation and Development.<sup>8</sup> Should new programs be necessary to address forced labor, interested parties should work together using a similar standards development model.

## **VII. The FLETF Should Use The “List Of Entities Working With The Government Of The XUAR To Recruit, Transport Or Harbor Forced Labor Or Members Of Persecuted Groups” As A Tool, Not Just A Reference**

The UFLPA requires the FLETF to develop a list of entities that are implicated in forced labor activity. This list should not just serve as a reference, but as a serious and effective tool that is dispositive, provides guidance to industry, and charts the course for the government in its efforts to combat forced labor. The FLETF should also consider articulating a process by which entities have an opportunity to remove themselves from this list.

### *CTA Recommendations:*

- The FLETF should develop and receive feedback on these entity lists through a transparent process (see Section II.B of the FLWG comments). Inclusion on these lists should be subject to an evidentiary standard that demonstrates that firmly corroborated evidence confirms the forced labor allegations.

<sup>2</sup> [https://www.ilo.org/global/topics/forced-labour/WCMS\\_210827/lang-en/index.htm#:~:text=Since%202002%2C%20the%20Special%20Action,laws%2C%20policies%20and%20action%20plans](https://www.ilo.org/global/topics/forced-labour/WCMS_210827/lang-en/index.htm#:~:text=Since%202002%2C%20the%20Special%20Action,laws%2C%20policies%20and%20action%20plans)

<sup>3</sup> <https://www.unglobalcompact.org/what-is-gc/mission/principles>

<sup>4</sup> Principle 1: Businesses should support and respect the protection of internationally proclaimed human rights; Principle 2: make sure that they are not complicit in human rights abuses; Principle 4: the elimination of all forms of forced and compulsory labour; and Principle 5: the effective abolition of child labour.

<sup>5</sup> [https://mneguidelines.oecd.org/5%20Step%20Framework\\_A3.pdf](https://mneguidelines.oecd.org/5%20Step%20Framework_A3.pdf)

<sup>6</sup> [https://www.whitehouse.gov/wp-content/uploads/2020/07/revised\\_circular\\_a-119\\_as\\_of\\_1\\_22.pdf](https://www.whitehouse.gov/wp-content/uploads/2020/07/revised_circular_a-119_as_of_1_22.pdf)

<sup>7</sup> <https://www.sec.gov/rules/final/2012/34-67716.pdf>

<sup>8</sup> <https://www.oecd.org/corporate/mne/mining.htm>

The FLETF should use a “clear and convincing evidence” threshold to determine which entities are included.

- The FLETF should provide greater clarity on possible implications for companies on this list. For example, would the Bureau of Industry and Security (BIS) subject entities on the UFLPA list to measures under the Export Administration Regulations (EAR)?
- In addition, the FLETF should:
  - clarify that the rebuttable presumption under the UFLPA is only applicable to entities specifically included on UFLPA Section 2 lists (i.e., the presumption does not extend to affiliates or subsidiaries of listed entities unless those affiliates or subsidiaries are specifically included on the relevant list);
  - provide specific and substantiated reasons why listed entities, industries, sectors, and product types were included;
  - provide industry with a reasonable time to review Section 2 lists and take appropriate action, prior to initiating list-based enforcement; and
  - institute a six-month grace period before future additions to Section 2 lists become effective. Without reasonable notice (e.g., six months) the supply chain disruptions could worsen and further hurt the economy and US consumers.

### **VIII. Working with Allies and Multilateralization is Critical to Success and Will Help Preserve U.S. Industry Competitiveness**

Combating forced labor requires cooperation among allies and partners across the world. UFLPA implementation will be more successful if the FLETF works in lockstep with their counterparts in other governments. The FLETF must work toward the greatest possible alignment of approaches to combating forced labor by other governments. Greater alignment will preserve U.S. industry competitiveness throughout UFLPA implementation. CTA recommends that the Administration use every commercial and trade forum possible to achieve this alignment, working with industry and other stakeholders in all discussions. These fora include:

- The U.S.-EU Trade and Technology Council (TTC);
- The forthcoming Indo-Pacific Economic Framework (IPEF);
- Trilateral discussions with the EU and Japan on export controls;
- Regional venues such as the Asia-Pacific Economic Cooperation forum, which the United States is hosting in 2023, and U.S.-ASEAN engagements; and
- Bilateral discussions under existing U.S. free trade agreements (e.g., the U.S.-Mexico-Canada Agreement; other trade agreements (U.S.-China Phase One deal), U.S. Trade and Investment Framework Agreements, and new supply chain initiatives.

### **IX. Recommendations regarding detained shipments**

CTA encourages the FLETF guidance to include a note clarifying that the re-export of shipments detained while under UFLPA review does not conclusively indicate the involvement of forced labor. A company or importer's decision to return a shipment to its country of origin may be for various commercial reasons and unrelated to any potential enforcement action. The FLETF should also ensure that CBP processes detained shipments as quickly as possible (e.g., when CBP makes a determination of admissibility or allows importers to re-export shipments) and issues timely detention notices. Faster processing will help importers avoid incurring large fees at ports.

**CTA Is Committed to Serve as a Resource for the FLETF During ULFPA Implementation**

As mentioned above, successful implementation of the UFLPA will require close collaboration, information sharing, and dialogue between the Administration and stakeholders. CTA is committed to working with the Administration to combat forced labor and end this scourge around the world. We encourage the FLETF to consider CTA as a partner and resource and look forward to further engagement in the coming months. Thank you again for the opportunity to comment and for considering our comments.

Sincerely,



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## Annex 1 – CTA Responses to Questions in the Federal Register Notice

### **6. In addition to cotton, tomatoes, and polysilicon, are there any other sectors which should be high-priority for enforcement?**

No other sectors. To fulfill the requirements of Section 2(d)(2)(B)(viii) of the Act, the FLETF should do five things.

First, it should define “sectors” clearly and specifically, based on existing, widely used and accepted nomenclature to ensure that importers have clear, advance notice about whether a particular imported product is subject to prioritized enforcement efforts.

Second, the FLETF should define objective processes and criteria for identifying new sectors for high-priority enforcement. A single instance or limited anecdotal suggestions that goods in the sector are produced with forced labor should not be sufficient to prioritize the entire sector for enforcement.

Third, the FLETF should only designate sectors for high-priority enforcement through an open and transparent process, with reasonable opportunity for notice and comment by all interested parties and based on publicly available information.

Fourth, the FLETF should similarly specify a process by which sectors are removed from the high-priority enforcement list.

Fifth, the FLETF should be as specific as possible when identifying high-priority products or sectors. For example, “polysilicon” is extremely broad and used in a variety of products, and therefore should be narrowed to particular products or industries warranting the heightened concern.

### **7. What unique characteristics of such high-priority sector supply chains, including cotton, tomato, and/or the polysilicon supply chains, need to be considered in developing measures to prevent the importation of goods mined, produced, or manufactured wholly or in part with forced labor in the People’s Republic of China?**

The FLETF should not designate particular sectors as “high-priority for enforcement” based on vague “characteristics”. Rather, the FLETF should only make such a designation for a given sector after receiving: 1) verifiable evidence of specific instances that products in a sector have been made with forced labor; and 2) evidence that those specific instances are representative of the practices of the sector as a whole. Any high-priority designation of a sector should occur only after sufficient notice, with full public transparency, and only after giving the opportunity for stakeholders to comment on the designation. The FLETF should re-evaluate any “high-priority” sector designation on a regular basis to reflect efforts and improvements made by the sector and fluidity in global supply chain.

**8. How can the United States identify additional entities that export products that are mined, produced, or manufactured wholly or in part with forced labor in the Xinjiang Uyghur Autonomous Region or by entities that work with the government of the Xinjiang Uyghur Autonomous Region to recruit, transport, transfer, harbor, or receive forced labor?**

In identifying additional entities, the FLETF should undertake analysis on its own, seeking input from a wide range of stakeholders. The FLETF should undertake a transparent consultation process that provides stakeholders with opportunities for public comment. It should also suggest clear criteria for identifying such additional entities.

**9. How can the United States most effectively enforce the UFLPA against entities whose goods, wares, articles, or merchandise are made wholly or in part with forced labor in the People's Republic of China and imported into the United States?**

Enforcement of the UFLPA will be most effective when the Administration works with industry as a close partner and trusts that industry shares its commitment to combating forced labor. Collaboration and clear guidance are important to industry and therefore instrumental to effective enforcement. These steps will ensure effective enforcement of UFLPA while helping industry avoid unnecessary disruption to their business operations.

**10. What efforts, initiatives, and tools and technologies should be adopted to ensure that U.S. Customs and Border Protection can accurately identify and trace goods entered at any U.S. ports in violation of section 307 of the Tariff Act of 1930, as amended?**

CTA encourages CBP to cooperate with the private sector. CBP and its interagency partners should build on existing tools rather than create new tools. There are pre-existing agreements for companies on due diligence and supply chain transparency, for example under the Responsible Business Alliance, the International Labor Organization, and the OECD.

The guidance published by FLETF should include specific, actionable steps, companies and importers can take to:

- determine whether a product was produced, in whole or in part, using forced labor;
- provide evidence to rebut the presumption of such forced labor; and
- conduct appropriate due diligence when site-level assessments or audits are not possible (e.g., due to security concerns or risk of governmental retaliation).

**11. What due diligence, effective supply chain tracing, and supply chain management measures can importers leverage to ensure that they do not import any goods mined, produced, or manufactured wholly or in part with forced labor from the People's Republic of China, especially from the Xinjiang Uyghur Autonomous Region?**

Consumer technology companies are innovators, manufacturers, service providers and – most of all – employers of American workers. They make products designed to help the world overcome its greatest environmental, social, economic, and development challenges. Consumer technology supply chains are global, complex, interdependent webs, with many suppliers across the world playing important roles. Above

all, U.S. workers often provide the highest value activities in these supply chains through research and development, design, business development, marketing, sales, and delivery.

Consumer technology companies will know their first-tier suppliers and often have a vast array of suppliers in the first tier alone, indicating the challenges of the law's implementation beyond the first tier. But it can be difficult to know the suppliers of the raw materials that go into the inputs for their final products. These challenges are only amplified for SMEs.

For this reason, it is critical that the FLETF, in its strategy and guidance to importers, specify in the most practical and plain terms possible what constitutes "clear and convincing evidence" that imports do not contain goods, wares, articles, and merchandise mined, produced, or manufactured wholly or in part with forced labor in the People's Republic of China. Likewise, any evidence that would be required should be as equally accessible and available to SMEs as it is to larger companies.

**12. What type, nature, and extent of evidence can companies provide to reasonably demonstrate that goods originating in the People's Republic of China were not mined, produced, or manufactured wholly or in part with forced labor in the Xinjiang Uyghur Autonomous Region?**

The FLETF should consider whether CBP could allow importers the opportunity to demonstrate that PRC-origin goods did not touch the XUAR in any way. This opportunity could take the form of an affidavit that importers could include in relevant documentation importation. It could also be a third-party certification that an importer's supply chains are free of forced labor, where the third party is accredited by a U.S. government agency to make such certifications. The certification would be against a voluntary, consensus-based standard, consistent with the American National Standards process.

**13. What tools could provide greater clarity to companies on how to ensure upcoming importations from the People's Republic of China were not mined, produced, or manufactured wholly or in part with forced labor in the Xinjiang Uyghur Autonomous Region? To what extent is there a need for a common set of supply chain traceability and verification standards, through a widely endorsed protocol, and what current government or private sector infrastructure exists to support such a protocol?**

A "one-size-fits-all" set of supply chain traceability and verification standards must account for differences among the supply chains of different categories of products. Any standards should account for the depth and breadth of the supply chain of those products, be equally accessible to large and small businesses, and result from joint effort between CBP and industry. The Electronics Industry Code of Conduct, established by industry through the Responsible Business Alliance (RBA), prohibits the use of forced labor. The Code of Conduct has been adopted by all RBA members and covers not only electronics industry but also many automotive companies that share similar supply chain challenges. Additional standards development in specific sectors – as a supplement to industry-wide supply chain traceability and verification standards – should be done by industry through a voluntary, consensus-based manner.

**14. What type, nature, and extent of evidence can demonstrate that goods originating in the People’s Republic of China, including goods detained or seized pursuant to section 307 of the Tariff Act of 1930, as amended, were not mined, produced, or manufactured wholly or in part with forced labor?**

See CTA answer to Question 12.

**15. What measures can be taken to trace the origin of goods, offer greater supply chain transparency, and identify third-country supply chain routes for goods mined, produced, or manufactured wholly or in part with forced labor in the People’s Republic of China?**

See CTA Answer to Question 11.

**16. How can the U. S. Government coordinate and collaborate on an ongoing basis with appropriate nongovernmental organizations and private sector entities to implement and update the strategy that the FLETF will produce pursuant to the UFLPA?**

Regular and ongoing coordination with the private sector will be essential to support implementation of the UFLPA. DHS should regularly update its guidance to importers regarding the type, nature, and extent of evidence necessary to demonstrate compliance, with sufficient notice of any changes. DHS should also maintain an ongoing process by which importers can offer feedback on sector-specific findings and concerns.

**17. How can the U.S. Government improve coordination with nongovernmental organizations and the private sector to combat forced labor in supply chains, and how can these serve as a model to support implementation of the UFLPA?**

The U.S. government should engage in regular dialogue with stakeholders, including the private sector, on combating forced labor in supply chains. This dialogue could occur through a variety of means, including advisory committees, notice and comment opportunities, public hearings, academic symposia, and informal roundtable discussions. It is critical that the U.S. government include small and medium-sized enterprises in every aspect of its dialogue with stakeholders.